

Appl. No. 10/573,280  
Amdt. dated September 23, 2009  
Reply to Office Action mailed March 23, 2009

### **REMARKS/ARGUMENTS**

Claims 6, 7 and 11 are pending. Claim 7 has been amended herein. Claims 15-, 8-10 and 12-17 have been previously cancelled without intending to abandon or to dedicate to the public any patentable subject matter.

#### **Claim Rejections Under 35 U.S.C. § 101**

The Examiner has maintained the rejection of Claims 6, 7 and 11 under 35 U.S.C. § 101 as lacking utility. The Examiner argues that the invention is inoperable as “there is not one instance in which the specification demonstrates that autoantibodies against IGRP is found in diabetic or prediabetic mammals.” (Office Action mailed March 23, 2009, page 3, last paragraph)

Applicants submit herewith a declaration by Dr. John Hutton under 35 U.S.C. § 1.132. Dr. Hutton’s declaration describes experiments that clearly demonstrate that autoantibodies against IGRP are found in diabetic mammals. Applicants therefore submit that the currently claimed invention is in fact functional and that the evidence presented in Dr. Hutton’s declaration rebuts the Examiner’s *prima facie* showing under 35 U.S.C. § 101. See MPEP § 2107.02. Applicants therefore respectfully request the Examiner’s rejection under 35 U.S.C. § 101 be withdrawn.

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,  
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Date: September 23, 2009